1997-98 SESSION COMMITTEE HEARING RECORDS

Committee Name:

Joint Committee on Finance (JC-Fi)

Sample:

- Record of Comm. Proceedings
- > 97hrAC-EdR_RCP_pt01a
- > 97hrAC-EdR_RCP_pt01b
- > 97hrAC-EdR_RCP_pt02

- Appointments ... Appt
- Clearinghouse Rules ... CRule
- Committee Hearings ... CH
- > Committee Reports ... CR
- Executive Sessions ... ES
- > <u>Hearing Records</u> ... HR

- Miscellaneous ... Misc
- > 97hr_JC-Fi_Misc_pto6b_pto2_DPR
- Record of Comm. Proceedings ... RCP

Joint Finance
16.515/14.505
14 Day Passive
Reviews
7/25/97
12/4/97

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Arts Board | PD | DOT 12/2/97

Date: April 23, 1997

To:

Nick Chiarkas

Fritz Miller

From: Jose Perez

Re: Impact Study of adding 46.5 prosecutorial positions to DOA

Senate Amendment 1 to 1997 Senate Bill 77 proposes "increasing the authorized FTE positions for the Department of Administration" by a total of 46.5 assistant district attorney positions during the next biennium. This report is solely designed to address the impact that the additional ADA"s would have on the State Public Defender Budget. It is not intended to criticize the proposal or its support, but to simply delineate the additional costs that have to be considered.

The 1997-1999 State Public Defender (SPD) Budget was calculated based on prosecution positions remaining relatively constant. This Senate proposal would change that assumption, increasing state prosecution positions by 12.7%. It would be the largest increase in prosecutorial positions since DA's became part of state government. [Attachment A & B].

PUBLIC DEFENDER WORKLOAD

The State Public Defender Office has been witnessing a huge increase in felonies and misdemeanors since FY 90/91, the first full fiscal year that county DA's and ADA's were encompassed by the State of Wisconsin [Attachment C].

SPD FELONIES

<u>FY 1991</u>	<u>FY 1996</u>	<u>% Change</u>
15,733	21,818	+ 38.6%

SPD MISDEMEANORS

<u>FY 1991</u>	<u>FY 1996</u>	% Change
46,996	50,873	+ 8.2%

The State of Wisconsin, Office of Court Operations has also measured drastic increases during a similar 5 calendar year period [Attachment D]. (1996 totals were not available as of the date of this report.)

TOTAL STATE COURT FELONY FILINGS

<u>1990</u>	<u>1995</u>	% Change
18,738	23,594	+ 25.9%

TOTAL STATE COURT MISDEMEANOR FILINGS

<u>1990</u>	<u>1995</u>	% Change
72,851	95,537	+ 31.1%

The increases appear to be a statewide phenomena. The Office of Court Operations provided the yearly case *filings* of five different counties, all showed similar increases. In addition, all but one (of thirty-six) SPD offices showed a significant increase in felonies as a percentage of total workload.

CAUSES FOR INCREASED FILINGS OF CRIMINAL CHARGES

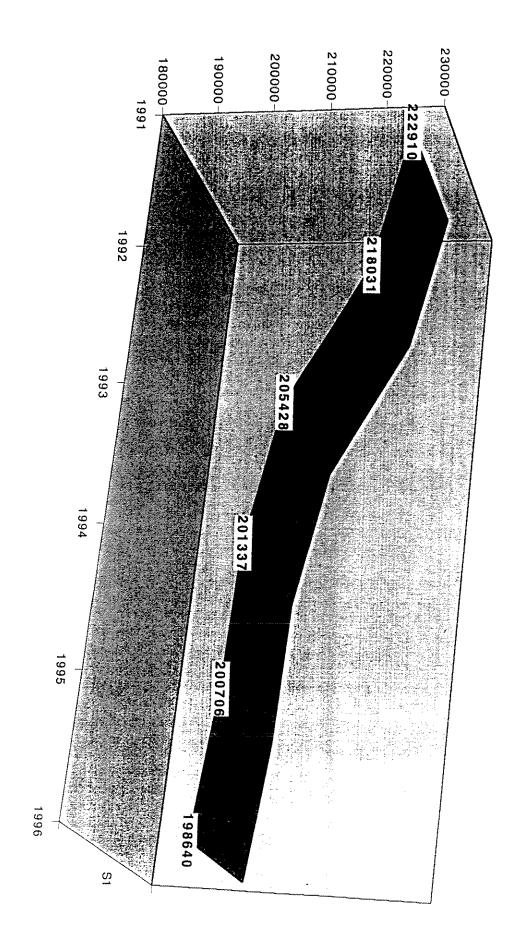
Increases in SPD caseload have often been attributed to numerous social factors: Population Increases, Population Education Levels, Population Density, Increases in Police Officers, Drug Use, and Other Issues. These factors affect crime rates in communities throughout the world.

In Wisconsin, per the Statistical Analysis Center, population has increased 3.7% from 1991 to 95 (from 4,920,507 to 5,101,581). Logically, if population has increased so has the density of some communities. State Full-Time Officers have also increased 10.8% during this period (from 10,691 to 11,841) [Attachment E].

Remarkably, none of these factors account for a crime wave. All indications show a DECREASE IN CRIME, not an increase.

All the social factors listed previously can only increase SPD caseload if they create more reported crime. If they don't create more reported crime, these social factors can be discounted as the specific reason for SPD caseload increases.

STATE OF WISCONSIN
TOTAL INDEX CRIMES REPORTED



REPORTED CRIME STATISTICS

Instead of mirroring criminal case filing increases, *Crime Statistics show a significant DECLINE IN CRIMES REPORTED*. The decline is not a one year phenomena, but a steady five year trend, per Statistical Analysis Center Reports [Attachment F].

TOTAL INDEX CRIMES REPORTED

<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
222,910	218,031	205,428	201,337	200,706	198,640

From 1991 to 1996, total crimes reported changed by -10.9%. This again, is a general statewide trend. This downturn is duplicated in almost every county. Other statistics show the lessened impact of crime in Wisconsin. The cost of stolen property has significantly dropped (even without adjusting 1991 cost estimates for inflation). The total property damage due to Arson has also diminished.

STOLEN PROPERTY IN DOLLARS

1991	<u>1995</u>	<u>% Change</u>
\$ 163,844,972	\$ 155,230,879	- 5.2 %

PROPERTY DAMAGED BY ARSON

<u>1991</u>	<u>1995</u>	<u>% Change</u>
\$ 15,000,404	\$ 9,783,373	- 34.8 %
	, , •	- 34.8 %

Part 1 Crime Arrests are also down. Part 1 crimes include the following: Murder, Negligent Manslaughter, Forcible Rape, Robbery, Aggravated Assault, Burglary, Theft, Motor Vehicle Theft, and Arson.

PART 1 CRIME ARRESTS

<u>1991</u>	<u>1996</u>	<u>% Change</u>
37,125	36,266	- 2.3%
		2.0/0

Taking a sub-part of Part 1 Crimes, results in an increase of violent crimes from 5,837 in 1991 to 6,950 in 1996. The difference is 1,113 arrests - certainly not enough to explain the 4,856 increase in court felony cases filed in the same period. Especially when one considers that property crime arrests dropped by 2,081 in the same period.

THE APPARENT CAUSE OF INCREASED CRIMINAL CHARGES

Most social causes are removed from consideration as causing increased criminal charges, because they would have been reflected in the statistics noted above. The stats tend to support the view that crime has dropped significantly.

One social cause that remains is the one that prompts prosecutors to diligently and forcefully charge individuals in the name of justice. There is no intention in this report to slight that prosecutorial mentality. It is just necessary to point it out as the probable cause for increased criminal charges in light of an undeniable drop in reported crime.

A less admirable possible cause is expressed in a 1994 report written by a University of Wisconsin Professor [Attachment G]. He described the practice of allocating future prosecutorial positions based on total case filings. The more charges filed, the greater the "need". "Under this system, matters which do not result in the filing of actual charges with the clerk of courts do not count at all." He states that "What does seem clear is that the state's exclusive control over new positions and the present means of evaluating need provide a potentially irresistible temptation to modify charging practices for reasons having little to do with culpability or community safety."

SUMMARY (ADDITIONAL COST TO SPD)

The filing of criminal charges by DA's and ADA's is based largely on their own initiative. It is not driven by an increase in crimes in the State of Wisconsin, because we have had a decrease for five straight years. Nor is the filing of criminal charges necessarily bad. It may be the cause for the drop in crime rates, or the increase in solved cases. (Estimated Clearance Rates are at an all time high. [Attachment H & I])

The reality is that additional DA's will be pressured to comply with office and professional norms. Charging practices will probably not change. Social and administrative pressures will continue to encourage the filing of additional criminal charges.

An increase in ADA's of the magnitude that is being proposed (12.7% increase) will inevitably increase State Public Defender Caseload. Assuming that each DA adheres to office norms, each will create additional criminal filings.

This 46.5 additional prosecutorial positions proposal is unique in that it claims that they will only be relieving other ADA's of excessive duties. For the reasons listed above, it is anticipated that additional criminal charges will be filed by these positions. Estimating how many additional charges will be filed is difficult. Therefore, the following provides three scenarios. Costs are estimated for these positions creating 25%, 50% and 75% of their own caseload.

Costs were determined by multiplying the number of positions proposed, times the estimated percentage of self-created case filings, times the statewide caseload average of 122 cases in FY 93-95, times the average cost for one caseload (a felony), times 90% (90% of all felony filings are handled by SPD), times .75 for FY 98 (due to an effective date of 10-1-97) .

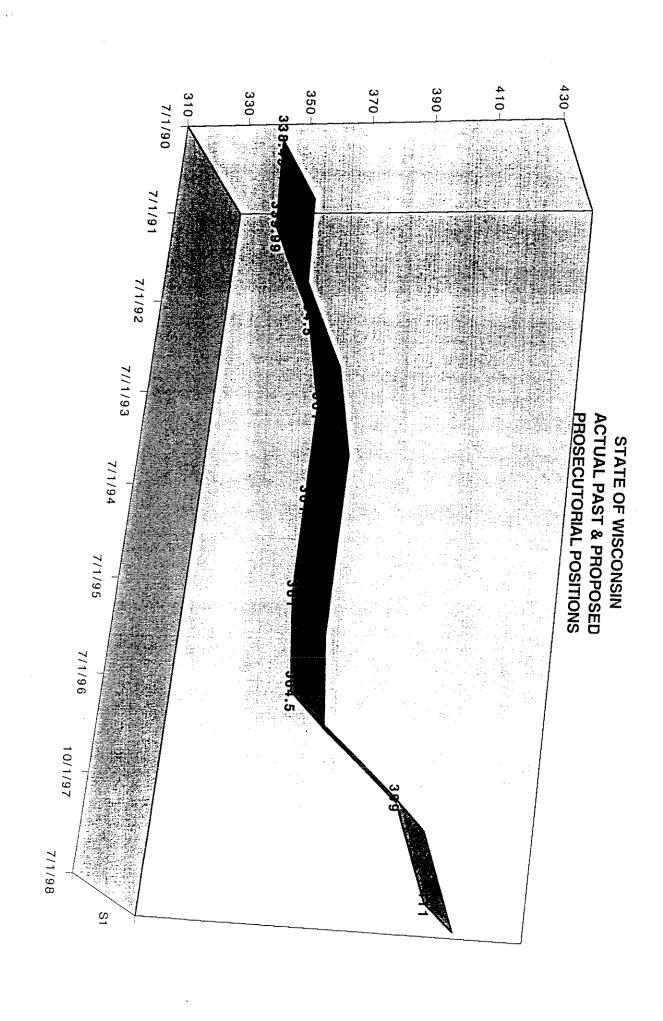
% of Self Created Filings	FY	Cost
75%	FY98 <u>FY99</u> TOTAL	\$ 1,917,723 \$ 3,446,346 \$ 5,364,069
50%	FY98 <u>FY99</u> TOTAL	\$ 1,278,482 \$ 2,297,564 \$ 3,576,046
25%	FY98 FY99 TOTAL	\$ 639,241 \$ 1,148,782 \$ 1,788,023

STATISTICAL SUPPORT

In an attempt to avoid the appearance that SPD numbers were manipulated in order to support the claim for additional funds, this report is almost totally based on information provided by outside sources. The following outside sources were used:

- 1. <u>Crime and Arrests Reports</u> compiled by the Wisconsin Office of Justice Assistance, the Statistical Analysis Center. Published Yearly, 1990 thru 1995.
- 2. <u>Crime and Arrests in Wisconsin 1996. Preliminary State Report</u> compiled by the Wisconsin Office of Justice Assistance, the Statistical Analysis Center. Released in April 1997.
- 3. <u>Prosecutorial Positions (Full-time Equivalents) Spreadsheet</u> compiled and provided by the DOA's, Division of Administrative Services, State Prosecutors Office on April 18, 1997.
- 4. <u>Criminal Caseload 1990 through 1995 Spreadsheet</u> compiled and provided by the Supreme Court, Director of State Courts, the State Office of Court Operations on April 22, 1997.
- 5. <u>Allocation of Prosecutor Positions: Determination of Need</u> a memo prepared by UW Professor Ben Kempinen in August 30, 1994.

ATTACHMENTA

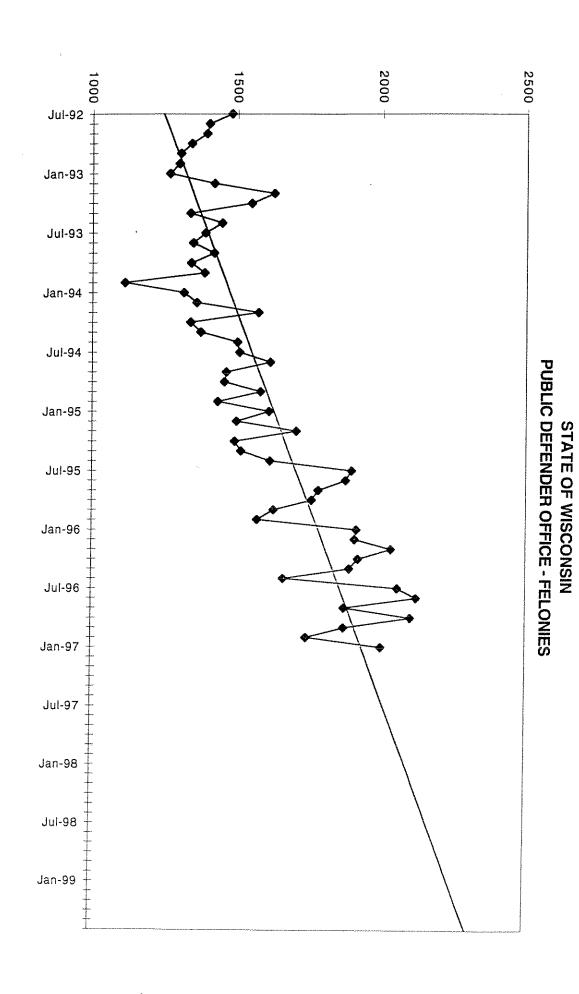


ATTACHMENT B

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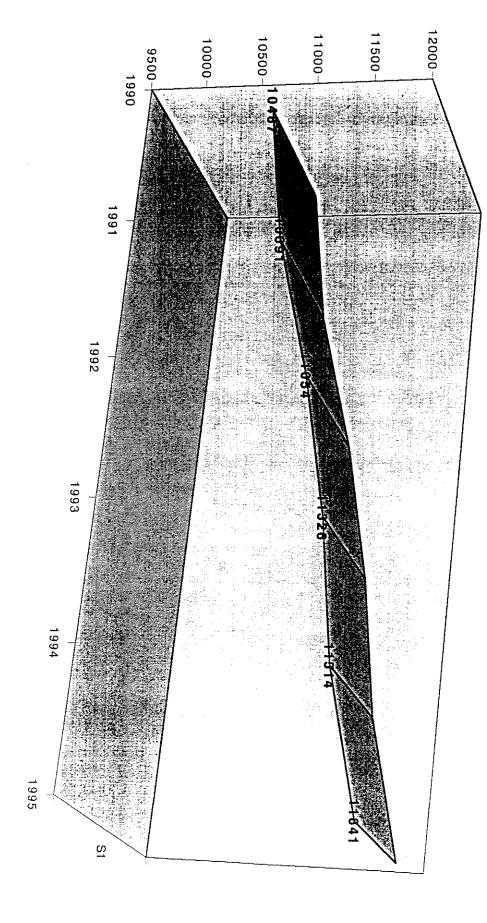


ATTACHMENT D

100	n			
1990	Statewide	Felony	Misdemeanor	
	Milwaukee	18,738	•	•
	Racine	5,740	• •	
	Dane	920	-,	1,410
	Rock	1,504	•	2,503
		952	,	1,143
	Brown	430	1,187	1,329
1991		Felony	Misdemeanor	Criminal Traffic
	Statewide	19,912		22,764*
	Milwaukee	5,543	,	22,704 N/A
	Racine	978		
	Dane	1,871	- ,	1,474
	Rock	955		2,317
	Brown .	488	1,459	1,196
	·	700	1,408	1,538
1992		Felony	Misdemeanor	Criminal Traffic
	Statewide	20,273	55,211	23,833*
	Milwaukee	6,658	11,850	N/A
	Racine	941	3,795	1,436
	Dane	1,869	4,495	2,296
	Rock	950	2,624	1,244
	Brown	495	1,253	1,656
1993		Felony	Mindamana	Control to the second
	Statewide	21,964	Misdemeanor	Criminal Traffic
	Milwaukee	5,577	60,369	32,539
	Racine	1,151	14,111	8,501
	Dane		3,303	1,383
	Rock	2,270	4,568	2,524
	Brown	1,021	2,756	966
	CIOWII	566	1,479	1,778
1994		Felony	Misdemeanor	Criminal Traffic
	Statewide	22,685	58,479	31,303
	Milwaukee	6,612	14,251	7,554
	Racine	1,210	3,173	1,374
	Dane	2,226	4,382	2,319
	Rock	946	2,407	969
	Brown	587	1,464	1,522
1995		Folony	1.67	
	Statewide		Misdemeanor	Criminal Traffic
	Milwaukee	23,594	63,576	31,961
	Racine	6,725	18,273	8,400
	Dane	1,178	2,952	1,390
	Rock	2,486	4,634	2,437
	Brown	987 702	2,877	1,058
	~	793	1,487	1,547

ATTACHMENT E

STATE OF WISCONSIN
FULLTIME LAW ENFORCEMENT
OFFICERS



ATTACHMENT F

Wisconsin Office of Justice Assistance

Tommy G. Thompson Governor Frederick N. Falk Executive Director

Crime and Arrests In Wisconsin 1996

Preliminary State Report

April 1997

Statistical Analysis Center Uniform Crime Reporting Program

222 State Street, Madison, Wisconsin 53702

Executive Summary

- 1. Total Index crime decreased by one percent, largely due to declines in each Index crime except theft.
- 2. Adult arrests for all Index crimes increased by 2.5 percent, due to increases in arrests for each Index offense except robbery and arson.
- 3. Juvenile arrests for all Index crimes decreased by 2.1 percent, largely due to decreases in arrests for robbery, aggravated assault, theft, and motor vehicle theft.
- 4. The 27.7 percent clearance rate in 1996 was the highest Wisconsin clearance rate during the past twenty-five years in which statewide rates have been calculated.
- 5. The number of reported sexual assaults decreased by an estimated 1.5 percent in 1996.
- 6. While Violent Index crime more than doubled from 1976 to 1996, Property Index crime increased by only seven percent.
- 7. While the number of adults arrested for Violent Index crimes increased by nearly 146 percent since 1976, comparable juvenile arrests increased by about 99 percent.
- While adult arrests for Property Index crime increased by nearly 89 percent since 1976, juvenile arrests for Property Index crime increased by only 16.2 percent.
- 9. The percentage of stolen property that was recovered increased from 39.2 percent in 1995 to 43.1 percent during 1996.
- 10. The violent crime rate in Wisconsin during 1996 was less than one-half the corresponding rates for the Midwest and the United States in 1995.
- 11. The 1996 property crime rate in Wisconsin was about 14 percent less than the 1995 Midwest rate and about 22 percent less than the 1995 rate for the United States.
- 12. Two Wisconsin law enforcement officer were killed feloniously in 1996. By comparison, one officer was killed feloniously in 1995.
- 13. There were 619 assaults on Wisconsin law enforcement officers reported during 1996, about eighteen percent less than the 755 assaults reported during 1995.

A. Introduction

This report summarizes statewide crime and arrests in Wisconsin for 1996 and compares the figures with those of past years. All 1996 figures are estimates based upon nearly complete reporting from 340 law enforcement agencies throughout Wisconsin. The complete report on these crime and arrest data, which will include county and local jurisdiction data, will be available in June, 1997.

B. Crime and Arrests: 1995 and 1996

Table 1 compares reported Index offenses in 1995 to those of 1996.

TABLE 1

ESTIMATED INDEX OFFENSES REPORTED

TO WISCONSIN LAW ENFORCEMENT AGENCIES¹

Offense	<u>1995</u> 2	<u>1996</u>	Percent Change
Murder	218	201	- 7.8
Forcible Rape	1,192	1,098	- 7.9
Robbery	5,386	4,991	- 7.3
Aggravated Assault ³	7,592	6,772	- 10.8
TOTAL VIOLENT OFFENSES	14,388	13,062	- 9.2
Burglary	31,337	30,378	- 3.1
Theft	134,848	135,923	+ 0.8
Motor Vehicle Theft	18,292	17,843	- 4.2
Arson	1,516	1,434	- 5.4
TOTAL PROPERTY OFFENSES	186,318	185,578	- 0.4
TOTAL INDEX CRIMES	200,706	198,640	- 1.0

Total Index crime decreased by one percent, due to declines in each Index crime except theft.

¹ Data in this and subsequent tables are estimates based on data from over 99 percent of reporting agencies. Data may not sum to totals due to rounding.

Wisconsin 1995 data in this report may differ slightly from information published in Wisconsin Crime and Arrests, 1995 because of revised data submitted by local agencies.

TABLE 2

ESTIMATED ADULT ARRESTS REPORTED

BY WISCONSIN LAW ENFORCEMENT AGENCIES

Offense	1995	1996	Percent Change
Murder	355	381	+ 7.3
Forcible Rape	509	549	+ 7.8
Robbery	1,341	1,252	- 6.6
Aggravated Assault	4,745	4,877	+ 2.8
TOTAL ARRESTS FOR VIOLENT OFFENSES	6,950	7,059	+ 1.6
Burglary	3,000	3,152	÷ 5.1
Theft	23,280	23,751	÷ 2.0
Motor Vehicle Theft	1,942	2,113	÷ 8.8
Arson	203	191	- 5.9
TOTAL ARRESTS FOR PROPERTY OFFENSES	28,425	29,207	÷ 2.8
TOTAL ARRESTS FOR INDEX OFFENSES	35,375	36,266	+ 2.5
ARRESTS FOR ALL OTHER OFFENSES	259,853	279,596	+ 7.6
TOTAL ADULT ARRESTS	295,228	315,862	+ 7.0

Note: All arrest figures in this report continue to include seventeen year-olds in the juvenile category.

Adult arrests for all Index crimes increased by 2.5 percent, due to increases in arrests for each Index offense except robbery and arson.

The total number of arrests for "All Other Offenses" increased by 7.6 percent, largely due to increases in arrests or included offenses such as drug law violations, OMVWI, disorderly conduct, liquor law violations, and miscellaneous offenses. However, the number of adults arrested for simple assault declined in 1996.

TABLE 3

ESTIMATED JUVENILE ARRESTS REPORTED

BY WISCONSIN LAW ENFORCEMENT AGENCIES

<u>Offense</u>	1995	<u>1996</u>	Percent Change
Murder	68	97	+ 42.6
Forcible Rape	131	147	+ 12.2
Robbery	938	803	- 14.4
Aggravated Assault	1,410	1,246	- 11.6
TOTAL ARRESTS FOR VIOLENT OFFENSES	2,547	2,293	- 10.0
Burglary	3,283	3,689	÷ 12.4
Theft	22,795	22,478	- 1.4
Motor Vehicle Theft	3,372	2,862	- 15.1
Arson	344	325	- 5.5
TOTAL ARRESTS FOR PROPERTY OFFENSES	29,794	29,354	- 1.5
TOTAL ARRESTS FOR INDEX OFFENSES	32,341	31,647	- 2.1
ARRESTS FOR STATUS OFFENSES ³	33,940	35,229	+ 3.8
ARRESTS FOR ALL OTHER OFFENSES	72,901	77,990	+ 7.0
TOTAL JUVENILE ARRESTS	139,182	144,866	+ 4.1

Juvenile arrests for all Index crimes decreased by 2.1 percent, largely due to decreases in arrests for robbery, aggravated assault, theft, and motor vehicle theft. However, the increase in arrests for burglary also should be noted.

The total number of juvenile arrests increased by 4.1 percent, largely due to increases in arrests for drug law violations, liquor law violations, disorderly conduct, and miscellaneous offenses. However, there were decreases in juvenile arrests for weapon law violations and runaways.

³ Status offenses include liquor law violations, curfew/loitering laws, and runaways.

Table 4 compares the clearance rates for Index offenses for 1995 and 1996. The clearance rates are rounded off to the nearest percent except for the Violent, Property and Total rates.

TABLE 4
ESTIMATED CLEARANCE RATES

FOR INDEX OFFENSES

<u>Offense</u>	1995	1996
Murder	84%	87%
Forcible Rape	74%	75%
Robbery	35%	33%
Aggravated Assault	71%	73%
TOTAL VIOLENT	58.2%	58.4%
Burglary	18%	19%
Theft	27%	27%
Motor Vehicle Theft	23%	23%
Arson	25%	23%
TOTAL PROPERTY	25.1%	25.5%
TOTAL INDEX	27.5%	27.7%

The increase in the total clearance rate was largely due to increases in the clearance rates for aggravated assault and burglary.

The 27.7 percent total clearance rate in 1996 was the highest Wisconsin clearance rate during the past twenty-five years. The total Wisconsin clearance rate has steadily increased from 23.4 percent during 1990.

By comparison, the national total clearance rate was 21 percent in 1995, including 45.4 percent for Violent crime and 17.6 percent for Property crime.

Sexual Assault

The number of reported sexual assaults decreased by an estimated 1.5 percent in 1996. While there were 6,101 sexual assaults reported in 1995, an estimated 6,010 were reported in 1996. (Sexual assault includes a vide range of sexually assaultive behaviors. The Index crime category of Forcible Rape is one type of sexual assault.)

C. Long Term Trends in Crime and Arrests

Table 5, together with Graphs 1 and 2 show trends in reported offenses and arrests in Wisconsin during the past twenty-one years. Violent Index crimes are individually shown.

TABLE 5
WISCONSIN CRIME AND ARRESTS, 1976 - 1996
PRELIMINARY STATEWIDE INDEX OFFENSES

INDEX OFFENSES

	<u>1976</u>	<u>1981</u>	<u>1986</u>	<u>1991</u>	<u>1996</u>	Percent Change 1976 to 1996
Violent Murder Forcible Rape Robbery Aggravated Assault	6,343 140 542 2,734 2,927	8,934 159 737 3,236 4,802	12,359 153 969 3,478 7,759	13,843 240 1,261 5,902 6,440	13,062 201 1,098 4,991 6,772	+105.9 +50.7 +102.6 +82.6 +131.4
Property	173,410	218,809	184,347	209,067	185,578	+7.0
Total	179,753	227,743	196,706	222,910	198,640	+10.5

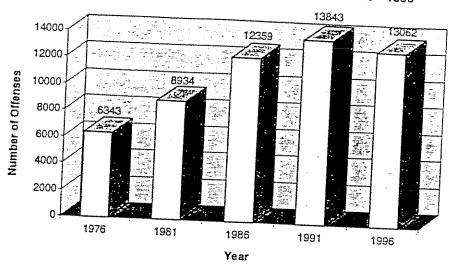
ADULT ARRESTS FOR INDEX OFFENSES

	<u>1976</u>	<u>1981</u>	<u>1986</u>	<u>1991</u>	<u>1996</u>	Percent Change 1976 to 1996
Violent Murder Forcible Rape Robbery Aggravated Assault	2,873 167 294 994 1,418	3,351 143 308 1,001 1,899	4,767 164 466 835 3,302	5,837 375 557 1,398 3,507	7,059 381 549 1,252 4,877	+145.7 +128.1 +86.7 +26.0 +243.9
Property	15,479	23,972	25,617	31,288	29,207	+88.7
Total	18,352	27,323	30,384	37,125	36,266	+97.6

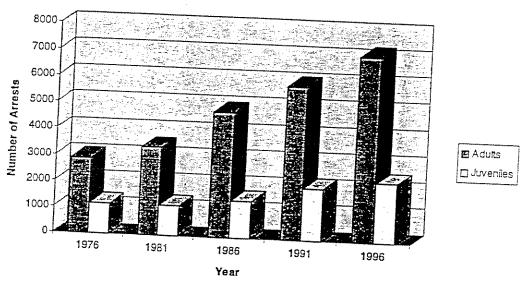
JUVENILE ARRESTS FOR INDEX OFFENSES

	<u>1976</u>	<u>1981</u>	<u>1986</u>	<u>1991</u>	<u>1996</u>	Percent Change 1976 to 1996
Violent Murder Forcible Rape Robbery Aggravated Assault	1,154 27 115 588 424	1,177 18 59 540 560	1,419 21 106 538 754	2,003 66 167 883 887	2,293 97 147 803 1,246	+98.7 +259.2 +27.8 +36.6 +193.9
Property	25,263	25,233	24,988	28,397	29,354	+16.2
Total	26,417	26,410	26,407	30,400	31,647	+19.8

Graph 1: Violent Index Offenses: 1976 - 1996



Graph 2: Adult and Juvenile Arrests for Violent Crime



While Violent Index crime more than doubled from 1976 to 1996, Property Index crime increased by only seven percent.

Arrest trends for adults and juveniles have varied somewhat over the past twenty-one years. While the number of adults arrested for Violent Index crimes increased by nearly 146 percent since 1976, comparable juvenile arrests increased by about 99 percent. While both adult and juvenile arrests for Violent Index crime rose steadily since 1976, the most dramatic increases in arrests for Violent Index crime have occurred since 1981. Also, while adult arrests for Property Index crime increased by nearly 89 percent since 1976, juvenile arrests for Property Index crime increased by only 16.2 percent.

D. Property Stolen and Recovered

Table 6 shows the value of property stolen and recovered during 1995 and 1996.

Table 6: Property Stolen and Recovered, 1995 and 1996

Year	Amount Stolen	Amount Recovered	Percent Recovered
1995	\$155,230,879	\$60,919,575	39.2
1996	\$164,991,704	\$71,124,873	43.1

The total amount of property stolen increased by 6.3 percent in 1996. However, since the amount recovered increased by 16.8 percent, the percentage of stolen property that was recovered increased, from 39.2 percent in 1995 to 43.1 percent during 1996.

E. Offense Rates

Table 7 shows crime rates per 100,000 for Wisconsin, the Midwest, and the entire United States. (Note: the Midwest includes the twelve states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin). Crime rates are used for comparison among jurisdictions with different population levels and consist of the number of reported Index crimes per 100,000 residents. While the estimated 1996 crime rates are used for Wisconsin, the 1995 rates are the latest available for both the Midwest and the United States. Note: all property and total offense rates include estimates for arson.

Table 7: Crime per 100,000 Residents

<u>Jurisdiction</u>	Total Index Crime	Violent Crime	Property Crime
United States - 1995	5,323	685	4,638
Midwest - 1995	4,796	588	4,208
Wisconsin - 1996	3,862	254	3,608

The violent crime rate in Wisconsin during 1996 was less than one-half the corresponding rates for both the Midwest and the United States in 1995. The property crime rate in Wisconsin was about 14 percent less than the Midwest rate and about 22 percent less than the rate in the United States.

F. Assaults on Law Enforcement Officers

Two Wisconsin law enforcement officers were killed feloniously in 1996. By comparison, one officer was killed feloniously in 1995.

There were 619 assaults on Wisconsin law enforcement officers reported during 1996, about eighteen percent less than the 755 assaults reported during 1995. Nearly seventy percent of the 1996 assaults occurred while officers were responding to disturbance calls, making a traffic stop, or transporting/handling a prisoner. Also, nearly 96 percent of the 1996 assaults on law enforcement officers were cleared by arrest.

ATTACHMENT G

August 30, 1994

FROM:

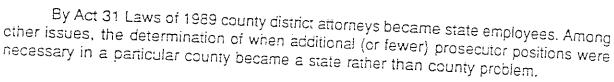
Ben Kempinen.

TO:

Walter J. Dickey

SUBJECT:

Allocation of Prosecutor Positions: Determination of Need



Prior to the effective date of Act 31 there was no consistency between counties with respect to number of positions relative to workload, population or number and size of police agencies. Some county boards generously allocated positions to the district attorney and others did not. Caseloads per assistant varied widely from county to county. Nor did many prosecutor offices maintain thorough records of caseloads or allocation of resources. These variations were accepted as a starting point by the counties with a goal or moving towards a state-wide case management system to evenly allocate state resources among the various counties. One view is to seek implementation of a program similar to "CCAP", the new and somewhat controversial system for state trial judges.

In phone conversations on November 2, 1993, and August 29, 1994, Stuart Morse, Director of the State Prosecutor's Office, indicated that the department of administration sought information of two types to make position allocation decisions: (1) number of cases and (2) comparative level of complexity among cases. However, the only available and broking information was (and remains) (1) law enforcement records (e.g., "rap sheets" offices maintain independent records sufficient to provide the needed information and among those that have information available there was no consistency between counties.

Consequently, a decision was made to rely on initial case filings in the circuit courts as the measure of workload. With respect to comparative weighing, the department of administration has used the same system used by the public defender:

type of case	measure of complexity
felony juvenile misdemeanor criminal traffic	1.0 · ,[1.0] [†] 0.7 [0.4] 0.7 [0.3] 0.4 []

The numbers in parentheses reflect the new proposed comparative case weights based upon the recent voluntary time study of Wisconsin prosecution offices. Criminal traffic and noncontested forfeitures were not evaluated in the new time study. (see attachments).

contested forfeiture 0.1 [0.2] noncontested forfeiture 0.0 [—]

Under this system, matters which do not result in the filing of actual charges with the clerk of courts do not count at all. (e.g., diversion; substantial investigations which fail to produce sufficient evidence, etc.) Need is assessed by adding and weighing total case filings, the sum of which is divided by the number of positions in the particular office. Counties are then ranked, with those having the most need having priority for the limited number of positions funded each biennium. In the past, some of the most remote counties have shown the highest need whereas many of the most populated Wisconsin counties are shown to have no need. Attached is a chart showing the current "need assessment" based upon the most recent information available to the Department of Administration.

The following example shows how the system currently works.

Assume that X enters a residence, gaining entry by breaking a window. Once inside he steals four items of personal property having a value of \$200.

scenario A

After consultation with police, the victim and defense counsel no charges are issued because X agrees to make restitution and obtain drug treatment.

workload calculation: "0" credit because no charges are issued.

scenario B

X is charged with one count of burgiary, one count of misdemeanor criminal damage to property (window) and four counts of misdemeanor theft (one count for each item). All charges are included in a single complaint with a single case number.

workload calculation: "1.0" credit (in single-complaint multiple count cases the most serious case only is counted)

scenario C

Assume the same facts as scenario B except that $\underline{\mathsf{all}}$ six counts are filed on separate complaints.

workload calculation: "4.5" credits (1.0 for the felony and 0.7 for each of the five misdemeanors.)

In addition, current counting techniques do not factor in subsequent medifications of the initial filling(s). If, in scenario C the prosecutor would dismiss all charges the day of the initial appearance to follow the agreement described in scenario A credit would still

Needless to say, this system lends itself to substantial manipulation. As a partial response to criticism, both from prosecutors and others, the State Prosecutor's Office has actively solicited assistance in developing means of obtaining more accurate data and devising a better system. As a partial response to the admitted shortcomings of the present formula the State Prosecutor's Office is the process of conducting a voluntary time study intended to obtain better information with respect to comparative weighing of cases. The time study is not intended nor likely to cause a change in reliance on separate case filings as a measure of need. At most, it will provide a more accurate means of

Since this system has been in place there has been substantial discussion in the counties about how it has affected charging decisions. In virtually every office I have visited prosecutors say they are overwhelmed and need new positions. All are acutely aware of their "standing" in the state's evaluation of "need" and how charging practices will impact their status. Several prosecutors claim that others now charge multiple counts in separate complaints when past practice was to charge either fewer counts or issue a single charging document with several counts. The incentive to do so is covicus -- to show greater need and obtain additional state-funded positions.

During my intern visits I have heard more criticism of the system and the resultant changes in charging practices from prosecutors than from public defenders or judges. Perhaps this is because some prosecutors who have not changed practices feel they have been denied positions unfairly or perhaps it is because many judges or defender offices are not aware of how this system may have influenced charging decisions.

Less certain is how "loading up" initially may influence the ultimate resolution of the case. Even before the enactment of Act 31 of the Laws of 1989 the prevailing charging practice in most counties was to charge high to permit flexibility in inducing a plea of guilty. Students report this continues to be the most common strategy in the offices in which they interned. This may mean that cases are ultimately resolved similarly to the past with the illusion of "better" deals as a byproduct. Or it could mean that ultimate dispositions have become more severe, either because fewer charges are dismissed or those that are dismissed and "read-in" have a residual aggravating effect on sentencing

What does seem clear is that the state's exclusive control over new positions and the present means of evaluating need provide a potentially irresistible temptation to modify charging practices for reasons having little to do with culpability or community STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON GOVERNOR JAMES R. KLAUSER SECRETARY Mailing address: Post Office Box 7869 Madison, WI 53707-7869

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STATE PROSECUTORS OFFICE ————————————————————————————————————	MENTODANIDA
	MEMORANDUM/CORRESPONDENCE
Telephone No. (608) 267-2700	- WILD CHAPTING
	FAX (608) 254-9500
	, , or (ode) 494-35011

August 30, 1994

Professor Ben Kempinen University of Wisconsin Law School 905 University Avenue, Suite 309 Madison, WI 53715-1094

Dear Professor Kempinen:

Attached is a memo you requested that was sent to all District Attorneys for their use in developing budget requests for the 1995-97 biennium. It was based upon the first 8,400 cases entered onto the data base and is thus highly preliminary. Ultimately I expect 15,000 to 16,000 cases. As of today there are nearly 12,000 on the data base.

The Court's figures are called official, but since this was sent out two items of data were changed as errors were discovered by DAs and the Court's data office agreed.

Please note my plea to DAs and ADAs to recommend improvements in how the executive and legislative budget offices examine the available data in preparing their advice to their principals. I believe the Wisconsin DAs Association will be formally making some recommendations on this and I hope the Association of State Prosecutors will do likewise.

In addition I anticipate that individual DAs will offered useful suggestions. An example of that is the attached, very thoughtful letter from Paul Bucher, the DA in Waukesha County.

Please call me if you have any questions on this information.

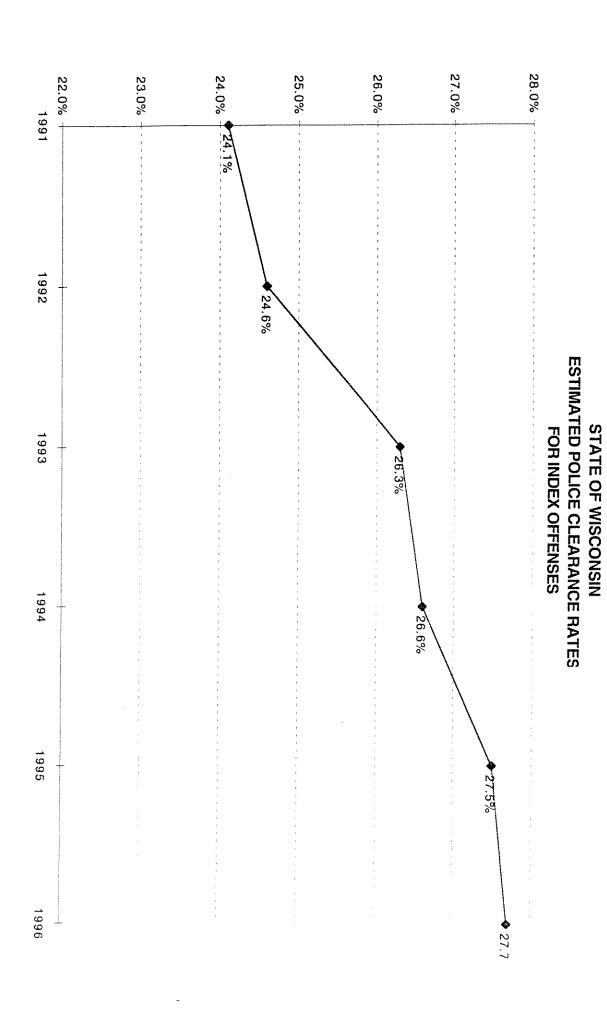
Sincerely.

Stuart Morse Director

SM

Attachments

ATTACHMENT H



ATTACHMENT

STATE OF WISCONSIN ESTIMATED CASES CLEARED

